



October 6, 2009

The Honorable Charles Terreni
Chief Clerk and Administrator
Public Service Commission of South Carolina
Post Office Drawer 11649
Columbia, South Carolina 29211

RE: SCPSC Docket No. 2009-168-E – Order No. _____
Joint Proposed Order Approving Partial Waiver of Commission Rules 103-331
and 103-336

Dear Mr. Terreni:

Enclosed for filing in the above-referenced docket is the Joint Proposed Order Approving Partial Waiver of Commission Rules 103-331 and 103-336 on behalf of Carolina Power & Light Company d/b/a Progress Energy Carolinas, Inc., South Carolina Electric & Gas Company, Duke Energy Carolinas, Inc. and the Office of Regulatory Staff.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Len S. Anthony', with a large, stylized loop at the end.

Len S. Anthony
General Counsel
Progress Energy Carolinas, Inc.

LSA:mhm

STAREG697

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2009-168-E - ORDER NO. 2009-__
OCTOBER __, 2009

IN RE:

Progress Energy Carolinas, Inc.'s Motion for)	PROPOSED ORDER APPROVING
Partial Waiver Of Commission Rules 103-331)	PARTIAL WAIVER OF COMMISSION
and 103-336)	RULES 103-331 AND 103-336

This matter comes before the Public Service Commission of South Carolina ("Commission") on the Motion of Progress Energy Carolinas, Inc. ("PEC") for a partial waiver of Commission Rules 103-331 and 103-336.

This matter was initiated on April 16, 2009 when PEC filed a Motion for a Partial Waiver of those portions of Commission Rule 103-331 that pertain to deposit requirements for new and existing non-residential customers and those portions of Rule 103-336 that concern deposit retention. The Commission established Docket No. 2009-168-E to address PEC's Motion.

PEC is organized under the laws of the state of North Carolina. It is an electrical utility providing electric service to northeastern South Carolina and is subject to the jurisdiction of this Commission. PEC's principal office is in Raleigh, North Carolina.

On April 21, 2009, the Office of Regulatory Staff ("ORS") gave notice of appearance in this proceeding. On May 26, 2009, the ORS filed a review letter stating that it had reviewed PEC's Motion and had no objection to the relief requested.

By Order No. 2009-344 the Commission directed its Staff to schedule a generic hearing concerning PEC's motion for partial waiver of Commission Rules 103-331 and 103-336. The Commission observed that both Duke Energy Carolinas ("Duke") and South Carolina Electric & Gas Company ("SCE&G") had previously requested similar waivers of these rules and that uniformity in the application of the Commission's rules necessitated a generic proceeding. By notices issued June 5, 2009, the Commission established testimony filing dates for all parties and scheduled a hearing on this matter for September 17, 2009.

The ORS, PEC, Duke, Lockhart Power Company and SCE&G are all of the parties of record in this matter. On August 20, 2009, direct pre-filed testimony was submitted for: PEC by Elaine McCallister; Duke by Barbara Yarbrough; SCE&G by Dan Brown; and the ORS by Randy Watts. On September 10, 2009 PEC, Duke, SCE&G and the ORS filed a Stipulation supporting PEC's Motion for Partial Waiver.

The Commission conducted a formal hearing in this matter on September 17, 2009 beginning at 10:30 a.m. in the hearing room of the Commission, with The Honorable Elizabeth Fleming, presiding. Len S. Anthony, Esquire represented PEC. Shealy Reibold, Esquire and Shannon Hudson, Esquire represented ORS. Chad Burgess, Esquire represented SCE&G. Catherine Heigel, Esquire, represented Duke.

At the opening of the hearing, Ms. Reibold, counsel for ORS, advised the Commission of the Stipulation, and moved the Stipulation and all pre-filed testimony and exhibits into the Record. The Stipulation was established as Hearing Exhibit 1. The Commission accepted the Stipulation and all pre-filed testimony and exhibits into the Record.

The Stipulation set forth that the Parties agree that:

1. The partial waiver of Commission Rule 103-331 approved by the Commission for Duke in Commission Order Nos. 2004-417 and 2005-600 should be continued and extended to all investor-owned electrical utilities operating in South Carolina.
2. In conjunction with the continuance and expansion of the partial waiver of Commission Rule 103-331, a partial waiver of Commission Rule 103-336 is also necessary.
3. A partial waiver of Rule 103-331 will allow Duke, PEC and SCE&G more freedom to negotiate payment solutions with a non-residential customer or a non-residential customer's parent company that may be experiencing financial difficulties but has not yet defaulted or caused a default on payment obligations to the electrical utility.
4. Requiring Duke, PEC and SCE&G to wait for a customer to default on a payment places them at a disadvantage in relation to the customer's other creditors and burdens other classes of customers by increasing the balance of uncollectible accounts.

5. That a partial waiver of Rule 103-336 is also consistent with the partial waiver of Rule 103-331 in that a customer or parent company's financial difficulty or bankruptcy may be imminent even though it continues to make billed payments in a timely manner.

6. That Duke, PEC and SCE&G may use different credit sources and evaluation techniques to perform a risk analysis on a customer as long as their respective practices are generally consistent with one another.

7. That Duke, PEC and SCE&G will provide ORS with a copy of their respective internal credit risk rating criteria upon request by ORS.

Duke witness Yarbrough testified that Commission Rule 103-331 (3) allows electrical utilities to require an existing customer to post a deposit or other form of security to guarantee payment of bills for service if the customer has had two consecutive 30-day arrears or more than two non-consecutive 30-day arrears in the past 24 months. She then explained that Commission Rule 103-336 provides that deposits shall be refunded completely with interest after two years unless the customer has had two consecutive 30-day arrears, or more than two non-consecutive 30-day arrears, in the past 24 months.

Witness Yarbrough and ORS witness Watts stated that in Order No. 2004-417 the Commission approved on an experimental basis in Docket No. 2004-169-E a request for a partial waiver of Rule 103-331 similar to the one now sought by PEC. As required by Order No. 2004-417, Duke filed a report of its experience with the waiver on September 27, 2005. In 2005 Duke asked that the partial waiver of Rule 103-331 be continued, and the Commission approved the partial rule waiver on a non-experimental basis in Order No. 2005-600.

Duke's witness Yarbrough explained that Duke requested the waiver because in the four years prior to requesting the partial waiver, it had experienced a significant increase in the volume of accounts written off as uncollectible. Many of these uncollectible accounts came from non-residential customers with large accounts or large numbers of accounts, and the lack of available guarantee requirements for these established customers under Rule 103-331 was a significant contributor to write-offs in the non-residential classes. She stated that, under the existing rules, customers paying within terms but having financial difficulty can be indebted for

two months' service without the utility having the ability to secure the account or discontinue service.

According to witness Yarbrough, Duke's experience indicates that although the customer may be paying its electric bill on a regular basis because it needs electricity on a day-to-day basis, its financial condition with other customers or suppliers may be rapidly deteriorating and bankruptcy may be imminent. Unlike other customers or suppliers, no charges for electric service are made until after the electricity already has been used, and the customer continues to use electricity until or after that bill becomes past due. Duke believed, at a minimum, that the creditworthiness criteria under Rule 103-331 should better match payment provisions in its tariffs and other rules. Specifically, the term "30-day arrears" as used in Rule 103-331 does not match the provisions of Duke's non-residential tariffs, which provide that bills are past due after 15 days, nor Rule 103-339, which allows late payment charges to be assessed after 25 days. As a result, customers currently do not have sufficient incentive to pay soon enough after billing to mitigate the credit risk.

The Duke, PEC and SCE&G witnesses each described in their testimonies the policies and procedures they use to evaluate the creditworthiness of their non-residential customers. They explained the challenges they face attempting to manage their uncollectible accounts in a prudent manner when they are prohibited from obtaining any type of security from a non-residential customer that is experiencing financial difficulties, potentially resulting in bankruptcy, but is paying its bill prior to the past due date. PEC and SCE&G testified that they have experienced losses when customers that were paying their bills consistent with the Commission's rules filed for bankruptcy leaving large unpaid electrical utility debts.

Duke witness Yarbrough testified that the waiver of Rule 103-331 has helped Duke avoid such write-offs. She stated that the waiver has been extremely successful, and the results show that they have achieved the right balance between minimizing the hardship of a security deposit request on customers while minimizing the burden on the general body of ratepayers from uncollectibles.

PEC and Duke observed that the North Carolina Utilities Commission rules allow them to require customers to re-establish their credit if the conditions on which the customer's credit was originally established "have materially changed." Duke witness Yarbrough testified that the

rule waiver in South Carolina has allowed it to review and treat customer accounts in South Carolina and North Carolina the same. This is especially important for customers that have accounts in both states. Some of the same customers whose accounts were secured in South Carolina also were secured in North Carolina and losses were prevented. PEC witness McCallister agreed with witness Yarbrough that allowing consistency between the utilities' practices in North and South Carolina is essential in managing their credit risks.

SCE&G witness Brown testified that, if a partial waiver of Commission Rule 103-331 is allowed, then Commission Rule 103-336 should also be partially waived. He observed that under Commission Rule 103-336, a utility is required to refund a deposit obtained when service was established after two years unless the customer has had two consecutive thirty day arrears, or more than two non-consecutive thirty day arrears, in the past twenty four months, even if the customer's financial situation has significantly deteriorated since the establishment of service. This requirement creates the same challenges for the utilities in managing their uncollectible risk as presented by Commission Rule 103-331. Therefore, he concluded that it too should be partially waived. The Duke and PEC witnesses also explained in their testimony that a partial waiver of Rule 103-336 is in the public interest.

All of the utility witnesses testified that the granting of the rule waivers in question will benefit their general body of customers. By reducing uncollectibles, the utilities reduce their revenue requirements which results in lower rates for their customers.

ORS witness Watts testified that Duke has been very successful in applying its creditworthiness criteria and procedures. He explained that Duke attempts to work with the customer on security options that do not involve the payment of a two-month cash deposit such as an accelerated payment plan, surety bond, bank letters of credit or some combination of these. Under this procedure Duke has mitigated the risk while minimizing the impact to the customer as well as the potential burden on the general body of ratepayers from uncollectibles. Witness Watts stated that Duke reports a total of 41 accounts with a monthly revenue exposure of \$10.8 million met the criteria for review during 2007 and 2008, and only 5 of these were determined to require a form of security. Application of the procedures in these cases assisted in the mitigation of losses that would have resulted when 4 of these 5 accounts went into bankruptcy. Also for this calendar year through June 2009, Watts further cited Duke reports that it has been able to

mitigate losses of approximately \$900,000 on two (2) customer accounts that went into bankruptcy due to the use of these approved guidelines in conjunction with the partial waiver.

Therefore, Watts testified that, through use of the partial waiver of Rule 103-331 and application of the criteria for review of customers' creditworthiness, Duke has been able to avoid losses and subsequent write-offs to uncollectibles. In addition, Watts testified the ability to use these procedures has allowed Duke to treat customer accounts in North and South Carolina in the same manner. Witness Watts then concluded that this uniformity can be helpful to utilities when working with companies that have accounts in both jurisdictions.

Witness Watts also observed that the proposed rule waivers will provide similar benefits to PEC and SCE&G. He noted that the witness testimony for both PEC and SCE&G included examples and data reflecting write-offs that could possibly have been mitigated through application of the Rule 103-331 partial waiver along with corresponding credit risk assessment procedures. In addition he has confirmed similar circumstances and concerns through discussions with Lockhart.

Finally, ORS witness Watts explained that any customer who feels aggrieved by implementation of the waiver of these Rules and concomitant use of risk analysis procedures will continue to have the option of bringing any concerns to the attention of the ORS Consumer Services Department as well as the Public Service Commission through the complaint process. He noted that in situations where the utilities determine it is necessary to seek security of payment there are many options other than the maximum two-month deposit requirement. The ORS will be privy to filings or complaints made concerning these programs and will review and analyze them for compliance with approved guidelines and for uniformity as ORS does in the normal course of its duties. Witness Watts observed that since the objective of the electrical utilities is to assist customers in remaining a viable entity, it is reasonable to expect them to invoke the use of these criteria only when the risk analysis indicates the customer's financial condition has deteriorated to the point that payment security is required.

In conclusion, Witness Watts found that the empirical data from the past two-and-one-half years of implementation by Duke indicates the success of the partial waiver of Rule 103-331 to mitigate and reduce uncollectibles in a manner fair and appropriate to all parties. He explained that the additional request for a partial waiver of Rule 103-336 would allow the utilities to retain

a deposit currently in its possession if the risk analysis shows the continued need for payment security and that the ORS believes the request is reasonable and in the public interest.

The Commission has considered the testimony of the witnesses and the other evidence of record in this proceeding, including the Stipulation. Based on this factual record, the Commission agrees that the requested partial waiver of Commission Rules 103-331 and 103-336 as applied to non-residential customers is in the public interest. Providing the State's utilities with the tools to secure customer accounts when a customer is in financial distress benefits the utilities' general body of ratepayers. It is not in the utilities' best interest to place unnecessary burdens on their customers that may cause them to reduce or terminate their operations and thereby reduce their consumption of electricity; therefore, the Commission believes the utilities will be judicious in their use of this waiver. The ORS will review the utilities' practices as necessary and ensure that waiver of these rules will inure to the benefit of their customers.

NOW THEREFORE, based upon the foregoing, IT IS HEREBY DECLARED AND ORDERED THAT:

1. PEC's motion for partial waiver of Commission Rules 103-331 and 103-336 is granted consistent with the Stipulation attached hereto as Order Exhibit No. 1, which was accepted into the record without objection at the hearing. The Stipulation constitutes a reasonable resolution to this proceeding and is hereby adopted as such.

2. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

Elizabeth B. Fleming, Chairman

ATTEST:

John E. Howard, Vice Chairman

(SEAL)

**BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

DOCKET NO. 2009-168-E

In RE:

Progress Energy Carolinas, Inc.'s Motion for Partial
Waiver Of Commission Rules 103-331 and 103-336

)
)

**CERTIFICATE OF
SERVICE**

I, Len S. Anthony, hereby certify that the Joint Proposed Order of Progress Energy Carolinas, Inc., South Carolina Electric & Gas Company, Duke Energy Carolinas, Inc. and the Office of Regulatory Staff for Approval of Partial Waiver of Commission Rules 103-331 and 103-336, in the above referenced docket has been served on all parties of record either by hand delivery or by depositing said copy in the United States mail, postage prepaid, addressed as follows, this the 6th day of October, 2009:

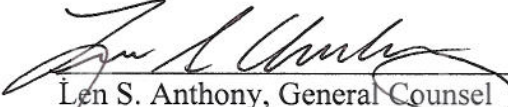
Catherine E. Heigel
Associate General Counsel
Duke Energy Carolinas, LLC
P. O. Box 1006, ECO3T
Charlotte, NC 28201
ceheigel@duke-energy.com

M. John Bowen, Jr. Counsel
McNair Law Firm, P.A.
P. O. Box 11390
Columbia, SC 29211
jbowen@mcnair.net

Margaret M. Fox, Counsel
McNair Law Firm, P.A.
P. O. Box 11390
Columbia, SC 29211
pfox@mcnair.net

Shealy Boland Reibold, Counsel
Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, SC 29201
sreibol@regstaff.sc.gov

K. Chad Burgess, Senior Counsel
South Carolina Electric & Gas Company
1426 Main Street, MC 130
Columbia, SC 29201
Chad.burgess@scana.com


Len S. Anthony, General Counsel